

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

CHARLIE FLENTROY	§	
VS.	§	CIVIL ACTION NO. 9:13cv296
RICK THALER, ET AL	§	

MEMORANDUM OPINION REGARDING VENUE

Charlie Flentroy, an inmate confined in the Eastham Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, brings this civil rights action against several prison officials, including Peggy Tagle and a Jane Doe defendant, each of whom is employed as a nurse at the Estelle Unit. Plaintiff alleges these defendants failed to provide him with proper medical care on February 5, 2013.

Analysis

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue is controlled by 28 U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose.

The Estelle Unit is located in Walker County. As the actions taken by defendant Tagle and the Jane Doe defendant were taken at the Estelle Unit, the claims against these defendant arose in Walker County. Pursuant to 28 U.S.C. § 124, Estelle County is located in the Houston Division of the Southern District of Texas.

As Walker County is located in the Houston Division of the United States District Court for the Southern District of Texas, venue with respect to the claims against defendant Tagle and the Jane Doe defendant is not proper in this court. When a case or claim is filed in the wrong district, the court "shall dismiss, or if it be in the interests of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).

Accordingly, plaintiff's claims against defendant Tagle and the Jane Doe defendant should be severed and transferred to the Houston Division of the United States District Court for the Southern District of Texas. An Order of Severance and Partial Transfer shall be entered in accordance with this Memorandum Opinion.

SIGNED this 16th day of December, 2013.



Zack Hawthorn
United States Magistrate Judge